

potentially serve follow-up discovery, Plaintiffs are left with no other recourse than to move this court to compel Ro and Daewoo to respond with production of the relevant documents identified in this motion.

Financial Records

Request No. 2 of the Plaintiffs' October RFP requests the production of "Tax returns for Daewoo Video, Inc. for 2006 and 2007 as well as for 2008, when completed and filed." (Ex. B). The October RFP was served on Daewoo on October 30, 2009. Daewoo responded to the October RFP on November 29, 2009, producing tax returns for 2007 and 2008 but failed to produce tax returns for 2006.

On September 1, 2009, Defendant Ro testified that he was the bookkeeper for Daewoo and he kept the records for Daewoo Video in his house and at the store. (Ex. C 13:18 – 14:17, September 1, 2009). Request No. 3 of the Plaintiffs' September RFP served on Defendant Ro requested the production of "Financial records of Daewoo Video, Inc. for the years 2006 to the present, including but not limited to records of accounts payable and receivable." (Ex. A). The Request was directed to Ro as custodian of the business records for Daewoo in accordance with his testimony and contemplated the production of documentation that would support the information reported in the tax returns, bank statements, and other financial documents kept in the regular course of business. Ro responded with objections to the September RFP on September 18, 2009 with Objections of Defendant Ro to Plaintiff's Second Request for Production of Documents, attached as Exhibit D and incorporated herein by reference. Defendant Ro did not produce any documents in response to Request No. 3, instead objecting on the grounds that "Daewoo Video is a distinct legal entity. To the extent that the request calls for

the documents that are company documents, the request should more properly be addressed to the company rather than to Mr. Ro individually.” (Ex. D).

Despite this frivolous objection given Defendant Ro’s testimony that he was the custodian for the business records of Defendant Daewoo, on October 30, 2009, Plaintiffs served Defendant Daewoo with the October RFPs, renewing its request for financial records in Request No. 4, which requests “Financial records of Daewoo Video, Inc. for the years 2006 to the present, including but not limited to records of accounts payable and receivable.” (Ex. B). On November 29, 2009, Defendant Daewoo served Plaintiffs’ with Daewoo’s Response to Plaintiff’s First Request for Production attached as Exhibit E and incorporated herein by reference. Daewoo indicated that it had produced financial documents in response to Request No. 4 by responding, “See attached”. (Ex. E). However, Daewoo did not produce any financial documents beyond 2007 and 2008 tax returns and bank statements in response to other Requests. To date, the only financial documents received by Plaintiffs from Daewoo are the 2007 and 2008 tax returns, bank statements for 2008 and 2009, and week-end register totals for 2008 and 2009.

Cell Phone Records

Request No. 8 of the September RFP requests the production of “Documents evidencing phone calls made on or received by Defendant Ro’s cell phone in 2008 and 2009, including but not limited to cell phone bills and/or statements. (Ex. A). On November 3, 2009, Ro served Plaintiffs with Responses of Defendant Ro to Plaintiffs’ Second Request for Production of Documents attached as Exhibit F and incorporated herein by reference. Ro did not produce any documents responsive to Request No. 8. (Ex. F). On November 30, 2009 as part of Daewoo’s Response to Plaintiffs’ First Request for Production, Plaintiff received copies of the invoices from Verizon directed to Ro. These Verizon invoices did not evidence phone calls made or

received by Defendant Ro's cell phone, instead only providing the total amount billed. Verizon's billing practice is to provide only the summarized billing statement in hard copy format unless the customer pays a fee for the detailed billing statement. However, detailed statements identifying calls made on or received by a customer's phone can be obtained for free using an online account to access Verizon's website. In a December 23, 2009 email attached as Exhibit G and incorporated herein by reference, counsel for Plaintiffs requested that the Defendant supplement his discovery by printing these detailed statements off the Verizon website. (Ex. G) To date, Plaintiffs have not received documents responsive to Request No. 8 in its September RFP.

Evidence of Rentals and Sales

Plaintiffs requested the production of documents relating to Ro's rental and/or sale of Plaintiffs' works from March 1, 2008 to the present, including revenues received, costs and profits. Plaintiff SBS International requested these documents in Request #11 of its First Requests for Production of Documents to Defendant Young Min Ro served on July 10, 2009 attached as Exhibit H and incorporated herein by reference. Plaintiff MBC requested these documents in Request #9 of its First Requests for Production of Documents to Defendant Young Min Ro served on July 10, 2009 attached as Exhibit I and incorporated herein by reference. Defendant KBS America requested these documents in Request #9 of its First Requests for Production of Documents to Defendant Young Min Ro served on July 10, 2009 attached as Exhibit J and incorporated herein by reference.

On September 8, 2009, Ro responded to the first set of Requests for Production by producing eleven pages of copies of monthly store productivity receipts. In his continued deposition on December 3, 2009, Defendant Ro testified that there were more detailed register

receipts in his possession that he had not yet produced. (Ex. K 10:5 -12:19 December 3, 2009)

The relevant portion of this transcript is attached as Exhibit K and incorporated herein by reference. Plaintiffs renewed their request for documents related to rental and sales in Request #4 of the September RFP. (Ex. A). Plaintiffs also requested the same documents from Daewoo in Request #5 of the October RFP. (Ex. B). To date, Plaintiffs have not received these more detailed records.

Therefore, Plaintiffs respectfully request that this Court grant its motion to compel answers and award reasonable expenses, including attorney's fees, to Plaintiffs pursuant to F.R.C.P. 37(a).

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